

TO: NAESB WGQ Executive Committee

From: ETS Pipelines (Florida Gas Transmission, Transwestern Pipeline, Northern Border Pipeline, Midwestern Gas Transmission)

RE: Response to Request for Comments on R02002 and 2002 Annual Plan Item 10 - Order 587-N

Date: August 15, 2002

The ETS pipelines appreciate the work of the NAESB WGQ subcommittees in developing the standards for capacity release recall and replacement shipper notification. ETS supports all of the proposed standards; with the exception of the Business Day recall notification restriction as Proposed Modifications to Standards 5.3.41, 5.3.42 and the Early Evening Recall Notification in Proposed Standard 5.3.z1.

ETS agrees with the removal of the Business Day option from 5.3.2. This allows replacement shippers the opportunity to find alternate capacity on the weekend and is consistent with the Proposed Standard 5.3.z1 for notification of recalls. In addition, this will allow releasing and replacement shippers to structure recall rights to match their needs.

However, we disagree with the inclusion of a validation for the Business Day recall notification restriction. By removing the Business Day option from non-biddable releases in Standard 5.3.2 the releasing shipper and replacement shipper are free to negotiate terms within the offer that are amenable to both parties. But, by adding this validation as an option confusion could occur if the terms within the offer contradicted the Business Day validation. For example, if the releasing shipper and replacement shipper choose the Business Day recall notification restriction and then agree that once a month a recall could occur on Sunday, the terms of the agreement could not be met because recalls would never be allowed to occur on a weekend. Shippers would not be able to tailor a recall provision that might be required by their particular circumstances, such as, a release which is recallable at releaser's option as needed on peak days which are not restricted to Monday through Friday.

Thus, by eliminating the Business Day modification to Standards 5.3.41 and 5.3.42, the releasing shipper and replacement shipper can determine what optionality is important to their capacity release arrangement. Further, the potential confusion resulting from contradictory conditions between the actual release and the validation will be minimized.

In addition, from the pipeline's perspective, it should not be a pipeline responsibility to monitor or to validate the terms of a release. That should be up to the releasing and replacement shippers. The pipelines have agreed that when they receive notice of a recall from the releasing shipper that they will send the recall notification to the replacement shipper(s) within one hour. The pipeline should not bear the liability of administering recalls beyond the notifications, especially because the triggers for a recall may not be within the knowledge of the pipeline. For example, recall triggers have been set on weather conditions, requirements of customers of the releasing shipper and unspecified conditions referenced as "per our discussion/conversation." The Commission made it clear in Order No. 587-N issued in *Standards for Business Practices of Interstate Natural Gas Pipelines*, FERC Stats and Regs ¶31,126 at 30106, paragraph 61 (2002), it stated, "The Commission has revised its proposed regulation to make clear that pipelines need only provide releasing shippers with the opportunity to include partial day recalls as a condition in capacity release offers. Whether a partial day recall applies to a capacity release will depend upon the terms of the agreement between the releasing and replacement shipper."

In addition, ETS does not agree with the addition of the Early Evening Recall Notification. Proposed Standard 5.3.z1 addresses the recall notification periods for all released capacity. The timeline expressed in the standard determines when the last opportunity for a recall is present prior to each nomination cycle. Recalls can happen any time prior to the deadline and the pipeline is obligated to notify the replacement shipper within one hour of being notified by the releasing shipper of a recall. If the releasing and replacement shipper have specific situations in which they choose to agree on a notification of a recall it should be included as a term of the release agreement. Thereby release and recall can be effectuated prior to any of the nomination cycle deadlines.